

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

HERSHELL JONES,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-06-1157-C
	)	
STATE OF OKLAHOMA, <i>et al.</i> ,	)	
	)	
Respondents.	)	

**ORDER**

This action was dismissed without prejudice, and the Petitioner filed a new habeas petition in this proceeding. Judge Bacharach recommended dismissal without prejudice of the new petition. The Petitioner did not object, and the Court adopts Judge Bacharach's recommendation.

When the action was dismissed, the action was terminated.<sup>1</sup> As a result, the Court lacks the authority to proceed further in this action.<sup>2</sup> Accordingly, as Judge

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<sup>1</sup> See *United States v. California*, 507 U.S. 746, 756 (1993) ("A dismissal without prejudice terminates the action and 'concludes the rights of the parties in that particular action.'" (citation omitted)); *Pell v. Azar Nut Co.*, 711 F.2d 949, 950 (10th Cir. 1983) (stating that a dismissal without prejudice terminated the action).

<sup>2</sup> See *United States v. Wallace & Tiernan Co.*, 336 U.S. 793, 794 n.1 (1949) (stating that a dismissal without prejudice "ended this suit so far as the District Court was concerned" (citations omitted)); see also *Walker v. University of Colorado Board of Regents*, No. 98-1240, 1998 WL 703171 at \*2 (10th Cir. Oct. 9, 1998) (unpublished op.) (holding that motions were moot because they had been filed in an action previously dismissed without prejudice).

Bacharach recommended, the Court dismisses the newly filed petition, without prejudice, based on the absence of jurisdiction.

IT IS SO ORDERED this 1st day of April, 2008.



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ROBIN J. CAUTHRON  
United States District Judge